

**CHIROPRACTIC EXAMINING BOARD
MADISON, WI
MINUTES
January 22, 2004**

- PRESENT:** Steven Conway, Susan Feith, Wendy Henrichs,
James Rosemeyer, James Weber
- EXCUSED:** Char Glocke
- STAFF PRESENT:** Kimberly Nania; Jacquelynn Rothstein; Legal Counsel,
Gina York, Program Assistant, and Division of Enforcement
and other staff
- GUESTS:** Ron Hermes, WPTA; Bill Boissannault, WPTA
Rachel Schraufnagel, WCA; Louie Schubert, WAHP;
Jeremy Levin, WI Medical Society

CALL TO ORDER

James Rosemeyer, Chair, called the meeting to order at 8:04 a.m. A quorum of 5 members was present.

AGENDA

Additions to the Agenda:

- Open Session: Add after Approval of Agenda - Election of Officers
- Closed Session: Add after Monitoring Received After Mailing of Agenda – Name:
Richard Golde

MOTION: Steven Conway moved, seconded by James Weber, to approve the agenda as amended. Motion carried unanimously.

ELECTION OF OFFICERS

The Board held elections for officers at the January 22, 2004 meeting.

MOTION: Steven Conway moved, seconded by Susan Feith, to nominate James Rosemeyer as Chair. Motion carried unanimously.

MOTION: Steven Conway moved, seconded by Wendy Hendrichs, to nominate

James Weber as Vice Chair. Motion carried unanimously.

MOTION: James Weber moved, seconded by Susan Feith, to nominate Steven Conway as Secretary. Motion carried unanimously.

The election results are as follows:

ELECTION RESULTS	
Board Chair	James Rosemeyer
Board Vice Chair	James Weber
Board Secretary	Steven Conway

APPROVAL OF MINUTES OF DECEMBER 18, 2003

The minutes for December 18, 2003 meeting were postponed and will be approved at the next Board meeting.

ADMINISTRATIVE REPORT

Kimberly Nania, Bureau Director of Health Service Professions, shared with the Board that there has been some change in personnel within the Department. Attorney Wayne Austin and Head Legal Counsel, Bill Dusso have retired. Steve Gloe has been appointed as the new Head Legal Counsel and has been with the Department for approximately 25 years. Department has finished the remodeling plans for the building and there are now going through the bidding process. The work should be completed by the end of the year. In addition, Dr. Nania informed the Board that the Department is working on new policies and procedures and will be sharing them with Boards once they have been finalized.

Dr. Nania shared with the Board that the problems still exist surrounding the gathering of information regarding the October 16, 2003 minutes. Dr. Nania and Gina York have been trying to get the information from those who ran the meeting but it has not yet been provided. Reminders have been sent and we hope to have them at a future meeting.

CONVENE TO CLOSED SESSION

MOTION: Steven Conway moved, seconded by Susan Feith, to adjourn to closed session pursuant to Wisconsin state statutes 19.85(1)(a)(b)(f) and (g) to consult with Legal Counsel and AAG Bruce Olson regarding the WCA Lawsuit. Motion carried by roll call vote: Steven Conway-yes; Susan Feith-yes; Wendy Hendrichs-yes; James Rosemeyer-yes; and James Weber-yes.

Open Session recessed at 8:15 a.m.

**WISCONSIN CHIROPRACTIC ASSOCIATION (WCA) vs. WISCONSIN
CHIROPRACTIC EXAMINING BOARD**

The Board discussed the pending WCA Lawsuit with AAG Bruce Olson and Attorney Jacquelynn Rothstein, Legal Counsel. The Board authorized Mr. Olson to arbitrate on behalf of the Board regarding the WCA Lawsuit.

**RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING
CLOSED SESSION**

MOTION: James Weber moved, seconded by Wendy Hendrichs, to reconvene into Open Session at 9:24 a.m. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS

There were no stipulations to be presented before the Board at this time.

**PRESENTATION OF PROPOSED STIPULATIONS THAT MAY BE
SIGNED AFTER MAILING OF AGENDA**

There were not additional stipulations to be presented to the Board.

**REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND
ADMINISTRATIVE RULES AND PRESS RELEASES
JACQUELYNN ROTHSTEIN, LEGAL COUNSEL**

Ms. Rothstein reviewed the report regarding any other pending court cases, disciplinary cases, administrative rules and press releases with the Board at today's meeting.

**APPROVAL OF SCOPE STATEMENT PERTAINING TO
QUALIFICATIONS FOR INSTRUCTORS**

The Board reviewed the scope statement submitted by Jacquelynn Rothstein, Legal Counsel, regarding qualifications for instructors and took the following action. Steven Conway did not participate in the discussion.

MOTION: Susan Feith moved, seconded by James Weber, to adopt the scope statement regarding qualifications for instructors as written and to move forward in the rule making process. Abstained – Steven Conway. Motion carried.

Further discussion occurred on how the drafting of the actual language would be done. Therefore, the Board will determine what the specific instructor qualifications will be and felt a designated board member, to work on the draft language with legal counsel, would be beneficial. Steven Conway did not participate in this discussion.

MOTION: James Weber moved, seconded by Wendy Hendrichs, to designate Susan Feith to work with Jacquelynn Rothstein, Legal Counsel, in drafting language regarding qualifications for instructors. Abstained – Steven Conway. Motion carried.

TITLE PROTECTION DRAFT LANGUAGE

The Board did an in-depth review of the draft language provided by Jacquelynn Rothstein, Legal Counsel, regarding title protection and use of terms to be incorporated into Chapter 446 of the Wisconsin Statutes. During today's review the Board requested revisions to the draft language and how they wish to handle each terminology portion. After much discussion, the Board requested to have additional research done by Jacquelynn Rothstein regarding terminology for manipulation, osteopath and mobilization and also check the PT rules. Wendy Hendrichs will contact WCA for any input they have regarding this language. The Board took the following action.

MOTION: Steven Conway moved, seconded by Susan Feith, to amend the draft language regarding title protection and use of the term "chiropractic" as indicated to legal counsel at today's meeting. Changes were to add "s" on the word term, and after the term "chiropractic" add "chiropractor or doctor of chiropractic" to both terms language. The Board requests to postpone the language for the term "adjustment" to the next meeting. Motion carried unanimously.

The DRL Request for Legislation Form was completed by Steven Conway and Kimberly Nania submitted to Christopher Klein on January 22, 2004 for proper and necessary action.

STATUS OF EMERGENCY RULE AND SUBMISSION OF LEGISLATION JACQUELYNN ROTHSTEIN

The Board discussed with Jacquelynn Rothstein, Legal Counsel, the status of the Emergency Rule. Attorney Rothstein reported to the Board the Emergency Rules have been extended for sixty (60) days beginning January 21, 2004. Attorney Rothstein also informed the Board the Clearinghouse Rule 03-082 regarding the general clean up of the Chiropractic rules includes the Emergency Rules. Steven Conway did not participate in any discussions involving CE's. The Board took the following action.

MOTION: Susan Feith moved, seconded by James Weber, to accept the language as written and to move forward in the legislative process. Opposed - Wendy Hendrichs; Abstained - Steven Conway. Motion carried.

ADMINISTRATIVE RULE REVISION FOR PHYSICAL THERAPY

The Board discussed the Administrative Rule revisions memo prepared by Attorney Wayne Austin on December 15, 2003 regarding Physical Therapy language. One of the issues was the supervision of PT aides. The Board discussed and felt that the competencies of aides are to be determined by the Physical Therapist and who should be held accountable. No action was needed by the Board at this time.

PRECEPTOR APPROVAL

The Board reviewed the preceptors presented at today's meeting. They were Marna N. Sobhani, Brent McNabb, and Sandra K. Chilson. The Board took the following action.

MOTION: James Weber moved, seconded by Steven Conway, to approve all three preceptors presented before the Board on 01/22/04. Motion carried unanimously.

PRECEPTOR APPROVAL FOR REQUESTS RECEIVED AFTER THE PRINTING OF THE AGENDA

None.

DOES THE BOARD HAVE AUTHORITY TO IMPOSE FORFEITURE/COSTS

The Board discussed briefly with Jacquelynn Rothstein, Legal Counsel, whether the Board has the authority to impose forfeiture and costs on cases. The answer was, No.

REVIEW THE NUMBER OF REQUIRED CONTINUING EDUCATION REQUIREMENTS

The Board had a lengthy discussion regarding the Chiropractic Board's number of CE's that are required and whether it should remain at forty (40) CE's per biennium. According to the information provided to the Board at today's meeting the Chiropractic Board has the second highest number among the other professions. Steven Conway did not participate in this discussion.

The Board had a couple of questions (1) what the number of CE's are required from other states? and (2) how the number of CE's rose to this level? The Board would like to do some research on these questionable areas before proceeding on this issue. Kimberly Nania will check into CE requirements of other states. She will contact Jim Greenwald on the history of CE's, asking him how it started and what was the progression to increase the CE's for the Chiropractic profession.

CORRESPONDENCE AND PHONE INQUIRIES BY LEGAL COUNSEL

Jacquelynn Rothstein, Legal Counsel, presented two correspondence she received to the Board for review.

The first correspondence was from a Gregory Thurston, DC, who provided an update and inclusion of DIBCN as a neurology diplomate specialty designation. The Board request legal counsel to ask Mr. Thurston for a syllabi, additional information on these courses and to identify with whom they are associated with such as schools and associations. This information will be provided to the Board at the next board meeting and placed in the agenda packet.

The second correspondence was from William Nanion, United Medical Network, regarding a practice question regarding fee splitting and nutritional advice. The Board requested legal counsel to respond and provide a copy of the letter in the next agenda packet for the Board's review.

Jacquelynn Rothstein, Legal Counsel, will respond to all correspondence and inquiries received on behalf of the Board and provide the requested information for the next meetings agenda packet.

CONSULT WITH LEGAL COUNSEL

The Board consulted with Jacquelynn Rothstein, Legal Counsel as needed through out the meeting.

INFORMATIONAL ITEMS

Noted.

VISITOR COMMENTS

None.

CLOSED SESSION

MOTION: Steven Conway moved, seconded by James Weber, to adjourn to closed session pursuant to Wisconsin state statutes 19.85(1)(a)(b)(f) and (g) to consult with Legal Counsel regarding the Suit by WCA, deliberate on proposed stipulations, deliberate on proposed administrative warnings, deliberate on monitoring issues, application review, monitoring report

and DOE case status reports. Motion carried by roll call vote: Steven Conway-yes; Susan Feith-yes; Wendy Hendrichs-yes; James Rosemeyer-yes; and James Weber-yes.

Open Session recessed at 11:58 a.m.

RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

MOTION: James Weber moved, seconded by Wendy Hendrichs, to reconvene into Open Session at 1:16 p.m. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

MONITORING

REVIEW OF DOCUMENTS

RICHARD GOLDE, D.C.

MOTION: James Weber moved, and seconded by Susan Feith, to table this request until the March 2004 meeting and confer with legal counsel. Motion carried unanimously.

RICHARD HORAITIS, D.C.

MOTION: James Weber moved, and seconded by Steven Conway, to request monitoring to send a letter to Richard Horaitis, D.C. with suggested revisions regarding the employee manual and for him to confer and review the manual with his mentor, Dr. Nagie and present the revised manual at the next Board meeting in March 2004. Motion carried unanimously.

ENDORSEMENT APPLICATION REVIEW

TODD A. VOLK, D.C.

MOTION: James Weber moved, and seconded by Steven Conway, to approve the application by endorsement for Todd A. Volk, D.C. Motion carried unanimously.

DIANE B. CAREY, D.C.

MOTION: James Weber moved, and seconded by Susan Feith, to deny the application by endorsement for Diane B. Carey, D.C. Reason for denial: Ms. Carey has a low score on the x-ray portion and to request her to complete Part IV or a Spec Exam. Motion carried unanimously.

ANNE THATCHER, D.C.

MOTION: Susan Feith moved, and seconded by James Weber, to send a letter to Anne Thatcher, D.C. requesting additional information and to request her to provide an official letter from the state that she passed the practical exam and from the state where she was licensed. Motion carried unanimously.

DIVISION OF ENFORCEMENT – CASE STATUS REPORT

MOTION: James Weber moved, seconded by Steven Conway, to close case **03 CHI 020** for P2. Motion carried unanimously.

MOTION: Wendy Hendrichs moved, seconded by Susan Feith, to close case **03 CHI 028** for compliance gained. Motion carried unanimously.

MOTION: Susan Feith moved, seconded by James Weber, to postpone case **02 CHI 015** for prosecutorial discretion. Motion carried unanimously.

MOTION: Steven Conway moved, seconded by James Weber, to close case **00 CHI 053** for prosecutorial discretion. Motion carried unanimously.

MOTION: Susan Feith moved, seconded by James Weber, to close case **99 CHI 055** for prosecutorial discretion. Motion carried unanimously.

MOTION: Wendy Hendrichs moved, seconded by Susan Feith, to close case **00 CHI 007** for P3. Motion carried unanimously.

MOTION: Steven Conway moved, seconded by Wendy Hendrichs, to close case **03 CHI 027** for P3. Motion carried unanimously.

MOTION: James Weber moved, seconded by Susan Feith, to close case **02 CHI 072** Closed. Motion carried unanimously.

MOTION: Susan Feith moved, seconded by Wendy Hendrichs, to close case **03 CHI 051** for P2. Motion carried unanimously.

OTHER BOARD BUSINESS

ADDRESS CHANGE

Steven Conway provided a mailing address he would like to have all DRL materials and agenda packets sent in the future. Gina York will forward this address change to the appropriate DRL staff to make this change.

NBCE AND FCLB MEETINGS

The Board discussed the upcoming national meetings to be held in Colorado on May 5-9, 2004. The cost will be paid by NBCE for one person to attend. The Board took the following action.

MOTION: Susan Feith moved, and seconded by Steven Conway, to designate the chair to appoint someone to attend the NBCE meeting and the FCLB. Motion carried unanimously.

ADJOURNMENT

MOTION: James Weber moved, seconded by Susan Feith, to adjourn the meeting at 1:24 p.m. Motion carried unanimously.

Next Meeting:
Thursday,
March 11, 2004
8:00 a.m.